

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

David Lee Wall,)	
)	
Plaintiff,)	Civil Action No. 8:15-2193-RMG
)	
vs.)	
)	
Carolyn W. Colvin, Acting Commissioner of Social Security,)	ORDER
)	
)	
Defendant.)	
)	
)	

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff’s application for disability insurance benefits (“DIB”) and supplemental security income (“SSI”). The Magistrate Judge issued a Report and Recommendation (“R & R”) on September 2, 2016, recommending that the decision of the Commissioner be reversed and remanded to the agency because of the failure of the Administrative Law Judge to weigh and evaluate the conflicting medical opinions in the record in accord with the Treating Physician Rule, 20 C.F.R. § 404.1527. (Dkt. No. 19). The Magistrate Judge noted that this Court had earlier reversed a previous decision of the Commissioner on the very same basis involving the weighing and evaluating of the opinions of the same physicians. (*Id.* at 26-29). The Commissioner has advised the Court that she will not file any objection to the R & R of the Magistrate Judge. (Dkt. No. 21).

The Court has reviewed the Report and Recommendation and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter.

Therefore, the Court **ADOPTS** the Report and Recommendation (Dkt. No. 19) as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. In light of the fact that Plaintiff's application for disability benefits has been pending for more than six years, the Court orders and directs that the administrative hearing in this matter be held within 90 days of this order and a final agency decision be made within 120 days of this order.¹

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

Charleston, South Carolina
September 21, 2016

¹ The Court shares the Magistrate Judge's confusion regarding how this matter could be previously remanded to the agency for the proper application of the Treating Physician Rule, and the Administrative Law Judge repeat the very same error with the very same expert testimony. Under these circumstances, the Commissioner might be better served to assign this remanded case to another Administrative Law Judge.